

ITEM:

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SUBJECT:

Kern Ridge Growers, LLC, Kern County –  
*Consideration of Waste Discharge Requirements Order  
and Cease and Desist Order*

DISCUSSION:

Kern Ridge Growers (KRG) owns and operates a carrot processing facility about one mile north of Arvin. The site is bordered by Edmundson Acres (a 25-acre residential development) to the east. Combined process wastewater and wash water is discharged to two deep unlined settling ponds and an unlined recycle pond where it is stored for reuse as initial wash water or reuse on 80 acres of vineyard.

Kern Ridge Growers applied in 1996 for an increase in wastewater flow to 144,000 gpd with expansion of its disposal area by 60 acres of leased vineyard. Due to potential environmental impacts, and particularly elevated nitrate levels in the nearby Edmundson Acres Mutual Water Company (EAMWC) water supply well, Board staff conducted an Initial Study in accordance with CEQA. The Initial Study concluded that potentially significant environmental impacts could result from KRG's expanded operation, but that the impacts could be mitigated by the lining or closure of unlined ponds.

As KRG was operating at increased flow and not providing technical information to justify unlined ponds, and as it, EAMWC, and Board staff appeared to agree on

the mitigated project, the Board proceeded with a mitigated negative declaration. The Board certified the mitigated negative declaration and adopted WDRs Order No. 98-216 on 23 October 1998 without contest. The WDRs required KRG to close or line its ponds by 1 July 1999. Kern Ridge Growers submitted a “Design Report” in March 1999 that included plans and specifications for lining the ponds, which Board staff approved. However, Kern Ridge continued to discharge without the liners. Instead, it petitioned the State Water Resources Control Board (SWRCB) to review, revise, and stay enforcement of the WDRs. Kern Ridge Growers maintained that it never agreed to a liner and that the Board had no basis for requiring the mitigation measure. In January 2000, the SWRCB informed KRG that its request for a stay was denied. In 1 August, the SWRCB concluded that KRG’s petition failed to raise substantial issues and dismissed it.

To support its position, including its petition, KRG submitted “new” groundwater data and other technical analysis. Board staff reviewed the analyses and “new” data as well as available historical groundwater monitoring data. The more in depth review indicates that the KRG unmitigated project likely has impacted underlying groundwater with

salts in violation of its WDRs and the Antidegradation Policy. The review indicates that the continued use of unlined ponds represents a potentially significant impact on the environment. Accordingly, the certified mitigated negative declaration remains appropriate and proper.

Absent more thorough investigation of the site that produces evidence to the contrary, a liner less than the prescriptive standards of Title 27 cannot be found as consistent with the Basin Plan.

Given Kern Ridge Growers' reluctance and delay in mitigating the impact, and available evidence of water quality impacts, the Board needs to take firm action. The Board has authority over setting and enforcing conditions of waste discharge, including the mitigation measures identified in the approved MND. Discharge of any waste in a manner that it might infiltrate and impact waste constituents to groundwater should be prohibited pending further, more thorough investigation. To implement this approach, WDRs Order No. 98-216 should be rescinded and replaced with a more comprehensive WDRs Order. The WDRs can allow the expanded project provided the WDRs prohibit discharge where it is likely to infiltrate to groundwater. A prohibition of unlined ponds allows the Board to find that the WDRs comply with the Basin Plan and are consistent with prior CEQA certification, and it does not

require the cooperation of the Discharger.

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Based upon long-term violations and violation of WDRs Order

No. 98-216, and for threatened violation of the prohibition in WDRs proposed for adoption, a C&D Order is proposed to reinforce the prohibition and establish a time schedule for the Discharger to: (1) cease use of the ponds, and (2) conduct a groundwater assessment to evaluate existing and/or potential impacts to groundwater from past use of wastewater ponds.

The EAMWC commented in support of the proposed action. Kern Ridge Growers provided editorial and technical comments, and disputes the need of lined ponds. Nevertheless, it says it is ready to line its ponds, provided its previous liner proposal is acceptable. Editorial corrections have been made.

**RECOMMENDATION:** Adopt the proposed Waste Discharge Requirements and Cease and Desist Order.

Mgmt. Review

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Legal Review

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